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April 6, 1995

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Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Alva E. Smith

Re: MUR 3774 (National Republican Senatorial Committee)

Dear Mr. Noble:

This response, including the attached Affidavits, is submitted on behalf of the National Republican Senatorial Committee ("the Committee"), and J. Stanley Huckaby, as Treasurer, as well as on behalf of Senator Phil Gramm (collectively "Respondents") in reply to the amendment to the complaint filed by the Democratic Senatorial Campaign Committee and designated Matter Under Review ("MUR") 3774.¹ For the reasons set forth herein, the Federal Election Commission ("FEC" or "Commission") should find no reason to believe that Respondents have violated any provision of the

¹ When this complaint was first filed in 1993, the Treasurer of the NRSC was Sonya M. Vazquez. Thus, contrary to the Commission's letter dated March 6, 1995, Stan Huckaby, as Treasurer of the NRSC was not notified of the original complaint in this matter, but is before the Commission now solely in his capacity as Treasurer of the NRSC.

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Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-455 ("Act").²

COMPLAINT

As was true of the original complaint in this matter, this amendment has no substance. Rather, the complaint is full of hypotheses and misstatements which are contrary to the facts, designed solely to entice the FEC into an unwarranted fishing expedition. As was true two years ago when the DSCC filed its original complaint, the NRSC continues to make legitimate donations to non-partisan, non-profit organizations. Yet, the Complaint, and now the amendment, alleges that the NRSC is making "soft-money" donations in order to influence federal elections. The only "evidence" related to its allegation that the Complaint puts forward is an off the cuff public remark by Senator Gramm regarding donations to the National Right to Life Committee which the DSCC concedes was corrected by the Senator and which is contrary to fact.

² The Commission sent a separate letter to Senator Phil Gramm which states that the amendment to the complaint indicates that Senator Gramm, in his personal capacity, may have violated the Act. However, the complaint specifically does not make any allegations against Senator Gramm in his personal capacity. Rather, it identifies Senator Gramm in his capacity as Chairman of the National Republican Senatorial Committee, a position he no longer holds. Thus, the allegations are directed solely at the NRSC.

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FACTS

As was true two years ago, the NRSC continues to raise funds for both federal and non-federal expenditures, segregating both according to FEC regulations. Historically, as addressed in the NRSC's June 30, 1993 response to the DSCC's original complaint, the NRSC has made donations from its non-federal account to a wide variety of non-partisan, tax exempt organizations. See 1993 Affidavit of Sonya M. Vazquez at ¶ 2, attached hereto as Exhibit A (attachments excluded) (hereinafter "Vazquez Aff."). These organizations are exempt from income taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.³

As indicated in the NRSC's June 30, 1993 response, the NRSC made donations in excess of \$450,000 to several non-profit organizations in 1992. See Vazquez Aff. at ¶ 4. As shown on the NRSC's publicly filed FEC disclosure reports, the NRSC continued its long-standing pattern of making donations to non-profit

³ Organizations exempt under Section 501(c)(3) are permitted to engage in non-partisan voter education and registration activities. 26 U.S.C. § 4945. Further, organizations exempt under Section 501(c)(4) may lawfully engage in similar non-partisan activities. Treas. Reg. 1.501(c)(4)-(1)(a)(2)(ii). See Revenue Ruling 81-95, 1981-1 C.B. 332. Thus, even if one assumes that the tax exempt organizations were involved in some political activities, that, in and of itself, is not prohibited under existing case law if it is non-partisan. See Faucher v. Federal Election Commission, 743 F. Supp. 64 (D. Me. 1990), aff'd 928 F.2d 468 (1st Cir. 1991), cert. denied, 112 S. Ct. 79 (1991); Federal Election Commission v. National Organization for Woman, 713 F. Supp. 428 (D.D.C. 1989).

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organizations by donating \$175,000 to these organizations in 1994.⁴ All of these funds came from the NRSC's non-federal accounts and "all non-federal expenditures required to be reported by the federal election laws have been reported by the NRSC on its Federal Election Commission disclosure reports." Vazquez Aff. at ¶ 3. See also Affidavit of Maureen Goodyear before the Federal Election Commission (hereinafter "Goodyear Aff.") at ¶ 3 (Exhibit B).

With respect to the most recent donations complained of by the DSCC several points must be made. First, each donation was made payable to National Right to Life, not the National Right to Life Political Action Committee as suggested via innuendo in the amended complaint. Goodyear Aff. at ¶¶ 4 & 6. Moreover, no donations were made to either the Pennsylvania Pro-Life Federation or the Minnesota Citizens Concerned for Life. Goodyear Aff. at ¶¶ 7-8. Second, the National Right to Life Committee is a "legitimate non-partisan organization exempt from taxation under Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code." Goodyear Aff. at ¶ 4. Finally, each donation was accompanied by a transmittal letter signed by the NRSC's then General Counsel, Edwina Rogers. Id. ¶ 5. These letters stated:

The National Republican Senatorial Committee
routinely makes contributions to charitable and

⁴ The NRSC also made donations to non-profit organizations in 1993 and has already made such donations in 1995. See Goodyear Aff. at ¶ 9.

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tax-exempt organizations such as the National Right to Life Committee. This contribution to your organization should be used for good government activities that are consistent with your organization's not-for-profit character. Please note that utilizing any of this money in any way to influence a federal election is strictly prohibited."

Id.

LEGAL ANALYSIS

As was true two years ago, the DSCC alleges a variety of violations of the Federal Election Campaign Act which are unsupported by the facts, misleading, and, in some cases, wholly erroneous. Complainants have taken a misstatement (later corrected) by Senator Gramm relating to the NRSC's contributions to the National Right to Life Committee and pounced on that statement as if it were true, even though the very same article in which that statement appeared contained ample evidence that no violations occurred.

First, as conceded by the DSCC, Senator Gramm corrected his misstatement with respect to these donations. See Affidavit of Phil Gramm Before the Federal Election Commission (hereinafter "Gramm Aff.") at ¶ 4 (Exhibit C). In fact, the article quotes Senator Gramm as stating that:

'the rules under which you contribute to groups like this through political committee[s] are very strictly set' and . . . the money was not given for any particular purpose but only because the Right to Life Committee's 'message conformed to the Republican message.'

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Ruth Marcus, GOP Donation Aided Right To Life Group, Washington Post, February 12, 1995 at A27 (hereinafter "Washington Post Article"). See also Gramm Aff. at ¶ 4. Furthermore, Senator Gramm explained that "he had mixed up other voter mobilization efforts with the general contribution to the Right to Life Committee, which was simply 'to help them reinforce their message.'" Washington Post Article at A29.

Second, as indicated in the article itself, "the Senate committee 'routinely' contributes 'to charitable, good government activities.'" Id. at A27. This very same fact was already attested to before the Commission by Sonya Vazquez, the NRSC's former Treasurer, in response to the DSCC's 1993 complaint, and confirmed by Maureen Goodyear, the NRSC's current comptroller. See Vazquez Aff. at ¶ 2, and Goodyear Aff. at ¶ 2. See also Gramm Aff. at ¶ 2.

Third, the Washington Post article quoted the letters from Edwina Rogers, the NRSC's then General Counsel which "cautioned that National Right to Life Committee that the contribution 'should be used for good government activities that are consistent with your organization's not-for-profit character' and that 'utilizing any of this money in any way to influence a federal election is strictly prohibited.'" Washington Post Article at A29. Those letters have been attached to the Affidavit of Maureen Goodyear (Exhibit B, Attachment 1) and are consistent with every transmittal letter issued by the NRSC when it contributes to not-for-profit

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organizations as the Commission was informed in the NRSC's June 30, 1993 Response to the DSCC's original complaint. See Vazquez Aff. at ¶ 5.

Fourth, the Executive Director of the National Right to Life Committee, David O'Steen, was quoted in the Washington Post article as saying "the money was a 'general contribution' for 'our ongoing educational, legislative citizens awareness activities' and not used for any specific purpose in the election." Washington Post Article at A27. Thus, even before the DSCC filed its amendment to the 1993 complaint it knew that the allegation of wrongdoing was completely without merit.

Moreover, the complaint does not and cannot demonstrate that the National Right to Life Committee used the money in connection with any election. Rather, it alleges that "affiliated" organizations engaged in legal activities in connection with two senate elections. But, even if one assumes (since there is no evidence) that these two "affiliated" organizations, Pennsylvania Pro-Life Federation and the Minnesota Citizens Concerned for Life were involved in some political activities as alleged in the complaint, as discussed further below that activity would not violate the law.⁵

⁵ See Faucher v. Federal Election Commission, 743 F. Supp. 64 (D. Me. 1990), aff'd 928 F. 2d 468 (1st Cir. 1991), cert. denied 112 S. Ct. 79 (1991); Federal Election Commission v. National

(continued...)

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The Continuing Lack of Evidence

Other than relying on innuendo with respect to publicly acknowledged donations by the NRSC to the National Right to Life Committee, a tax exempt organization, Complainants have not provided the Commission with one iota of evidence that any such funds were actually used in connection with either the Pennsylvania or Minnesota 1994 General Elections.

In fact, as was true in the original complaint, this amendment tries to fudge the facts. Thus, while the DSCC knows that the donations were made to the National Right to Life Committee and not the National Right to Life Committee PAC, the complaint tries to attach some import to the fact that the checks were sent to the director of the PAC. This, of course, is irrelevant, for the payee of the checks was the National Right to Life Committee which was told specifically that the funds could not be used in connection with federal elections. See Goodyear Aff., Attachment 1. Thus there is no doubt about the recipient or the purpose of the donations and, as noted above, the National Right to Life Committee's Executive Director was quoted as saying that the funds were for the National Right to Life's "'ongoing educational, legislative citizens awareness activities' and [were] not used for

⁵(...continued)
Organization for Women, 713 F. Supp. 428 (D.D.C. 1989).

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any specific purpose in the election." Washington Post Article at A27.

Further, as noted above, there is no allegation or evidence that the National Right to Life Committee used these funds in connection with any election. Indeed, to the extent any other entities are identified in the complaint, they are entities which apparently made lawful contributions to the Senate candidates at issue. For instance, the complaint states that the Pennsylvania Pro-Life Federation contributed \$2,323.01 to Santorum for Senate. But the very Exhibit supplied by the DSCC to prove its point actually demonstrates that it was not the Pennsylvania Pro-Life Federation that contributed to Santorum, but rather the Pennsylvania Pro-Life Federation PAC that contributed the funds to the Santorum Committee. On their face, these are lawful contributions.

Moreover, the complaint states that "the Minnesota Citizens Concerned for Life ('MCCL') made over \$85,000 in independent expenditures in support of Grams' candidacy." Complaint at 8. Again, however, the very Exhibit referenced for this proposition demonstrates that the independent expenditures were not made by the Minnesota Citizens Concerned for Life, but by the MCCL Committee for a Pro-Life Congress. Thus, here again, lawful funds were used to make legitimate campaign expenditures and the DSCC is complaining about nothing of substance.

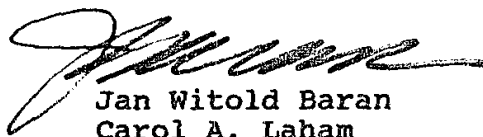
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The NRSC made legitimate donations to the National Right to Life Committee and specifically restricted the funds to ensure that they would not be used in connection with any federal election. Thus, the NRSC's activities were completely lawful.

CONCLUSION

Once again, Respondents have demonstrated that the Complaint fails to provide any evidence that the NRSC violated the Act through its donations to non-partisan, tax exempt organizations. Rather, in making these donations, the NRSC was careful to provide written guidance to the National Right to Life Committee that the funds were for appropriate lawful activities and not to be used in any manner to influence a federal election. Accordingly, the Commission should find no reason to believe that the National Republican Senatorial Committee and J. Stanley Huckaby, as Treasurer, or Senator Phil Gramm, as Chairman, have violated the Act.

Sincerely,



Jan Witold Baran
Carol A. Laham

Counsel for the National Republican
Senatorial Committee and J. Stanley
Huckaby, as Treasurer, and Senator
Phil Gramm

Encls.

A

City of Washington)
) MUR 3774
District of Columbia)

AFFIDAVIT OF SONYA M. VAZQUEZ

SONYA M. VAZQUEZ, first being duly sworn, deposes and says:

1. I am Sonya M. Vazquez, Treasurer of the National Republican Senatorial Committee ("NRSC"). I have been the Treasurer of the NRSC since December 17, 1992.

2. The NRSC has historically made contributions, to the extent allowed by law, to non-partisan, non-profit organizations.

3. Since the Commission instituted the requirement effective January 1, 1991, all non-federal expenditures required to be reported by the federal election laws have been reported by the NRSC on its Federal Election Commission disclosure reports.

4. The NRSC made the following donations from its non-federal expenditures account to entities that are legitimate non-partisan organizations exempt from taxation under Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code:

<u>Organization</u>	<u>Date</u>	<u>Amount</u>
National Right to Life Committee	10-02-92	\$ 25,000
American Defense Foundation	10-02-92	\$250,000
Coalitions For America	10-20-92	\$ 50,000
National Right to Life Committee	10-20-92	\$ 15,000
American Defense Foundation	11-10-92	\$ 30,000
Coalitions For America	11-11-92	\$ 40,000
National Right to Life Committee	11-17-92	\$ 45,000
Good Government Committee	11-18-92	\$ 7,000

See Attachment A.

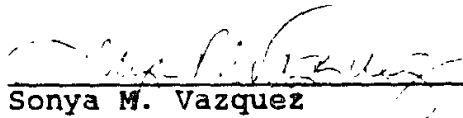
5. When making such donations, the NRSC attached to the check a transmittal letter emphasizing that the donation was for "good government activities" and was "to be used in a manner consistent with" the organization's charter. See Attachment B. Further, such letters noted that "utilizing any of this money in any way to influence a federal election is strictly prohibited." Id.

6. To our knowledge, each of the entities receiving donations from the NRSC engages only in legal activities consistent with the organization's charter.

7. The NRSC made no donations to the Georgia Right to Life Committee during the 1992 election cycle.

8. The NRSC made no donations to the Christian Coalition during the 1992 election cycle.

The above information is true and correct to the best of my knowledge, information and belief.


Sonya M. Vazquez

Signed and sworn to before me
this 27 day of June, 1993.


Notary Public

My Commission Expires: July 1st 1997

B

BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington)
)
District of Columbia) MUR 3774

AFFIDAVIT OF MAUREEN GOODYEAR

MAUREEN GOODYEAR, first being duly sworn, deposes and says:

1. I am Maureen Goodyear, Comptroller and Assistant Treasurer of the National Republican Senatorial Committee ("NRSC"). I have been the comptroller since March 1, 1995. I was not the comptroller of the NRSC at the time that it made donations to non-profits organizations as alleged in the complaint in Matter Under Review 3774. Thus, the information contained in this affidavit is based on my search of the NRSC records and on conversations with other NRSC personnel.

2. It is my understanding that the NRSC has historically made donations, to the extent allowed by law, to non-partisan, non-profit organizations.

3. Further, all non-federal expenditures required to be reported by the federal election laws have been reported by the NRSC on its Federal Election Commission disclosure reports.

4. The NRSC made four donations from its non-federal expenditures account to the National Right to Life Committee between October 31, 1994 and November 4, 1994. The National Right to Life Committee is a legitimate non-partisan organizations exempt from taxation under Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code. Each check was issued to "National Right To Life" and was endorsed by that organization.

Copies of the checks and transmittal letters accompanying the checks are found at Attachment 1.

5. When making the donations to the National Right to Life Committee, the NRSC attached to each check a transmittal letter from the NRSC's then General Counsel, Edwina Rogers, which stated that:

The National Republican Senatorial Committee routinely makes contributions to charitable and tax-exempt organizations such as the National Right to Life Committee. This contribution to your organization should be used for good government activities that are consistent with your organization's not-for-profit character. Please note that utilizing any of this money in any way to influence a federal election is strictly prohibited.

See Attachment 1.

6. The NRSC made no contributions to the National Right to Life Committee PAC during the 1994 election cycle.

7. The NRSC made no donations to the Pennsylvania Pro-Life Federation or its PAC during the 1994 election cycle.

8. The NRSC made no donations to the Minnesota Citizens Concerned for Life or its PAC during the 1994 election cycle.

9. However, the NRSC has continued its pattern of making donations to non-profit organizations by making a donation to the Fair Government Foundation in 1995.

The above information is true and correct to the best of my knowledge, information and belief.

Maureen A. Goodyear
Maureen Goodyear

Signed and sworn to before me
this 22nd day of March, 1995.

Rebecca A. Cox
Notary Public

My Commission Expires: 2/28/98

Rebecca A. Cox
Notary Public, State of Columbia
My Commission Expires Feb. 28, 1998

National Republican Senatorial Committee

7

SENATOR PHIL GRAMM
CHAIRMAN

WILLIAM D. HARRIS
EXECUTIVE DIRECTOR

October 31, 1994

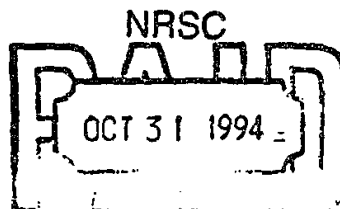
Ms. Carol Long
National Right to Life Committee
419 7th Street N.W., Suite 500
Washington, D.C. 20004

Dear Ms. Long:

Enclosed please find a \$50,000 contribution from the National Republican Senatorial Committee's non-federal account. The National Republican Senatorial Committee routinely makes contributions to charitable and tax-exempt organizations such as the National Right to Life Committee. This contribution to your organization should be used for good government activities that are consistent with your organization's not-for-profit character. Please note that utilizing any of this money in any way to influence a federal election is strictly prohibited.

Sincerely,

Edwina Rogers
Edwina Rogers
General Counsel



RONALD REAGAN REPUBLICAN CENTER
425 SECOND STREET, N.E. • WASHINGTON, D.C. 20002 • (202) 675-6000

PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE.

**NATIONAL REPUBLICAN SENATORIAL
COMMITTEE**

NON-FEDERAL EXPENDITURES

425 2ND ST., NE.
WASHINGTON, DC 20002

SIGNET BANK

Vienna, VA

Virginia

1315

OCTOBER 31 19 94

68-408/560 1411

PAY ****FIFTY THOUSAND AND 00/100******* DOLLARS \$ ****50,000.00***

TO
THE
ORDER
OF

NATIONAL RIGHT TO LIFE
419 7TH STREET, NW
SUITE 500
WASHINGTON, DC 20004
ATTN: CAROL LONG

23088343

[Handwritten Signature]
[Handwritten Signature]

⑈00001315⑈ ⑈056004089⑈ 652⑈016994⑈

⑈0005000000⑈

FOR DEPOSIT ONLY
NATIONAL RIGHT TO LIFE COMM., INC.
THANK YOU & GOD BLESS YOU
Acct. # 6670042032

DONOR WRITE IN FOR DEPOSIT ONLY

23088343 11-01-94

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SIGNET BANK
11-01-94

BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington)
)
District of Columbia) MUR 3774

AFFIDAVIT OF PHIL GRAMM

PHIL GRAMM, first being duly sworn, deposes and says:

1. I am a United States Senator from Texas and the former Chairman of the National Republican Senatorial Committee ("NRSC"). I was Chairman of the NRSC from January 1991 to December 1994.


2. During my tenure as Chairman, the NRSC made occasional donations, to the extent allowed by law, to non-partisan, non-profit organizations. These donations were made from the NRSC's non-federal accounts and were not used in connection with any federal election. Rather, they were made solely in support of organizations whose philosophy was compatible with the Republican Party's platform. Although as Chairman I set the NRSC's policy on such donations, I did not generally approve any particular donation.

3. At a luncheon with editors and reporters from the *Washington Post* on February 10, 1995, I was asked about some donations made in 1994 by the NRSC to the National Right to Life Committee. Without the opportunity to review the NRSC's records and to refresh my recollection, I answered offhandedly that I thought the donations were meant "to help activate pro-life voters in key states where they would be pivotal to the election." That and related statements by me were subsequently reported in a *Washington Post* article on February 12, 1995.

4. After the luncheon, I had an opportunity to review the facts and check the NRSC's records. I realized that my off-the-cuff comments about the NRSC's donations to the National Right to Life Committee had been incorrect. That same day I called the *Washington Post* reporter who had asked me about the donations at the luncheon and gave her the factual explanation of the donations -- which was reported in the February 12th *Post* article. As I explained and the *Post* reported, "the rules under which you contribute to groups like this through political committees are very strictly set." I further explained that the NRSC had made donations to the National Right to Life Committee because its "message conformed to the Republican message" and not to influence any particular election.

5. Because the NRSC raises and spends millions of dollars every election cycle, it is not possible for the chairman to keep track of every disbursement made by the committee. However, as chairman I did ensure that the NRSC did not make any donations for the purpose of circumventing the law. As the factual record reflects, the donations made to the National Right to Life Committee by the NRSC were legal donations to a non-profit organization from the NRSC's non-federal funds.

The above information is true and correct to the best of my knowledge, information and belief.



Phil Gramm

District of Columbia

Signed and sworn to before me
this 5 day of April, 1995.



Notary Public
Margaret Foster

My commission expires:
February 14, 2000